

Technical Training Competency 3.1

Competency 3.1 Technical training personnel shall demonstrate a working level knowledge of contracts and procurement processes and procedures; and how they apply to procurement of training-related services or products.

1. Supporting Knowledge and/or Skills

- a. Describe the process and requirements for paying for individual training courses as described in DOE Order 3410.
- b. Explain how procurement requests are generated and approved for training services.
- c. State and discuss the requirements and limitations associated with open competition for services and products.
- d. Describe the process for developing a scope of work, request for proposal, and evaluation criteria to determine the best source or provider of training services or products.
- e. Describe the requirements and process for using existing government sources for training services and products including:
 - Management and operating contractors
 - Support services contractors
 - Other government agencies
 - Local schools and universities
- f. Describe the roles and responsibilities of the Contracting Officer Representative and explain the relationship between the Contracting Officer Representative, the Contracting Officer, and the Contractor.

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2. Self-Study Activities (Corresponding to the Intent of the Above Competency)

Below are two web sites containing many of the references you may need.

Web Sites		
Organization	Site Location	Notes
Department of Energy	http://wastenot.inel.gov/cted/stdguido.html	DOE Standards, Guides, and Orders
U.S. House of Representatives	http://law.house.gov/cfr.htm	Searchable Code of Federal Regulations

Read pages I-3 through I-4 of DOE Order 360.1, *Training*.

EXERCISE 3.1-A For determining whether to pay training expenses, three prioritized objectives are established in the Annual Training Plan. What are the three objectives?

EXERCISE 3.1-B Explain how procurement requests are generated and approved for training services at your site.

Scan DOE Order 4200.1C, *Competition in Contracting*.

EXERCISE 3.1-C Identify and discuss the types of contracting processes that are used to put major contracts in place.

Read DOE Order 4700.1, *Project Management System*, Chapter I, Part C.9, Support to the Project Manager, and Part D.5.b, Project Planning for Major Systems Acquisition and Major Projects. This Order will be phased out upon the incorporation of its contents into contracts or other agreements. It is presented here because its general content remains applicable.

Scan DOE O 430.1, *Life-Cycle Asset Management*, Section 6, Requirements.

Read FAR, Subpart 16.101, *General*.

EXERCISE 3.1-D Explain what is meant by “Make-or-Buy” in procuring products or services.

EXERCISE 3.1-E Discuss the requirements to procure external products and services for DOE projects.

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EXERCISE 3.1-F Describe the methods for procuring other DOE or government products and services.

Scan DOE O 541.1, *Appointment of Contracting Officers and Contracting Officer Representatives*.

EXERCISE 3.1-G Describe the roles and responsibilities of the Contracting Officer Representative and explain the relationship among the Contracting Officer Representative, the Contracting Officer, and the Contractor.

3. Summary

Contracting for products and services is by far, the least costly method of obtaining the wide variety of products and services needed.

Contracts and the types of contracts vary according to how and what the Department pays for them. All have similarities yet each is unique in its own way. Whether it is an award-fee, fixed-price, or a time-and-materials contract, all require oversight by a DOE employee.

Contracts may be awarded as the result of competitive bids, by direct assignment, or through the “set-aside funds” (for projects/products under \$25,000). Not using the full and open competitive bidding process requires justification according to the conditions set down in DOE Order 4200.1C.

DOE uses more than the three types of contracts noted above. As an agency, they may use any of the contract types detailed in the Federal Acquisition Regulations. There are six broad categories, with multiple types of contracts under each category. See below for brief description and references.

1. Fixed-Price Contracts: Includes firm-fixed-price, fixed-price with economic price adjustment, fixed-price with prospective price redetermination, firm-fixed-price level-of-effort, etc. (See FAR part 16.2)
2. Cost-Reimbursement Contracts: Includes cost-reimbursement no fee, cost-reimbursement-plus-a ward fee, cost-sharing, cost-plus-incentive fee, cost-plus-fixed fee. (See FAR part 16.3)
3. Incentive Contracts: Includes fixed-price incentive, cost-reimbursement incentive, cost-plus incentive, etc. (See FAR part 16.4)

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4. Indefinite Delivery Contracts: Includes definite-quantity indefinite delivery, indefinite-quantity indefinite delivery, and requirements contracts. (See FAR part 16.5)
5. Time-and-Materials, Labor-Hour, and Letter Contracts: Three distinctly different types of contract. (See FAR part 16.6)
6. Agreements: Basic agreements and basic ordering agreements. (FAR 16.7)

In addition to the type of contract, the agency must decide whether the award will result from Sealed Bidding or will be a Negotiated Procurement.

Because it is sometimes difficult to determine what type of contract is contemplated, FAR 16.105 instructs government procurement personnel to insert the clause at FAR 52.216-1 as follows in RFP's or RFQs unless the solicitation is for a Small Purchase: "The Government contemplates award of a . . . (Contracting Officer inserts specific type of contract) contract resulting from this solicitation."

The "Make-or-Buy" decision is one that is based on total cost. Is it cheaper to design and construct a particular item or to purchase that item that is available on the market? Likewise, would it be cheaper to send a DOE person to a long-term training course or school than it would be to contract for the services of a trained person who is available? Sometimes, staff are available through an "interagency agreement," such as through a "matrix" support assignment.

Effective relationships between the Department and operating contractors are based in the site's conduct of operations. The organization and administration of operations should ensure that a high level of performance in DOE facility operations is achieved through effective implementation and control of operations activities. Effective implementation and control of operating activities are primarily achieved by establishing written standards in operations, periodically monitoring and assessing performance, and holding personnel accountable for their performance.

While most DOE personnel may not be directly involved with the appointment of Source Selection Officials or the contract extend or complete decisions, a knowledge of when, how, and who makes these decisions is extremely helpful. Orders relating to Organizational Conflict of Interest or the Set-Aside and 8(a) Program Review Procedures could directly impact them. Therefore a sufficient knowledge of contracting and financial Orders' purposes and provisions is needed, as are the other Orders listed.

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The Contracting Officer (CO) is a Departmental employee authorized to enter into, administer, and terminate contracts, financial assistance awards, leases, and sales contracts. The CO can also make related determinations and findings. They fill a critical role in accomplishing Departmental missions. As an agent of the United States with very specific authority and responsibilities, the CO establishes binding legal relationships that obligate the Government to pay for supplies and services received, to deliver property sold, and to provide financial assistance for the support of energy programs.

The contractor is fully accountable for performance of all work, regardless of whether the work is done by itself or subcontractors. The contractor and its subcontractors are expected to apply best commercial practices to the maximum extent possible. The contractor shall be responsible for planning, integrating, managing and executing the programs, projects, operations and other activities as described in its contract, in accordance with the terms and conditions of the contract, and in accordance with other directions and instructions which the Government may issue to the contractor from time to time.

The contractor furnishes all personnel, facilities, equipment, material, services, and supplies (except as may be expressly set forth in the contract to be furnished by the Government or others), and otherwise do all things necessary for, or incident to, carrying out the work in an effective and efficient manner. The contractor shall use its best care, skill and judgement in all matters pertaining to the performance of the contract.

The Contract Reform Initiative moves DOE from a compliance-driven performance measurement system to one that is results-oriented with the objectives of improving the quality of the services provided and ensuring that the government only pay for services actually received. It is the policy of the Department to use, to the maximum extent practicable, the full range of performance-based contracting concepts and methods in its contracts for services and for the management and operation of its weapons production and research sites and facilities.

As this study guide is being developed, the DOE contracts management process is transitioning to the Performance Measurement Assessment program. At the same time, procurement and administrative functions have traditionally been independent of one another, with each Operations Office deferring to its own methods and guidance documents. One model used by DOE is the value-based self-assessment model. Due to these issues, the reader should refer to the references listed and to site-specific requirement and guidance documents and subject-matter experts.

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4. Exercise Solutions

EXERCISE 3.1-A For determining whether to pay training expenses, three prioritized objectives are established in the Annual Training Plan. List the objectives in order of importance.

ANSWER 3.1-A The prioritized objectives are as follows:

- (1) Training that is required by law or regulation
- (2) Performance development training
- (3) Career management and development training

EXERCISE 3.1-B Explain how procurement requests are generated and approved for training services at your site.

ANSWER 3.1-B The process for generating procurement requests traditionally have been decentralized, with the Operations Office deferring to its own methods and guidance documents. At the same time, the DOE-wide procurement system is in a state of change. As such, refer to your site's procurement professionals for assistance in the procurement process.

EXERCISE 3.1-C Identify and discuss the types of contracting processes that are used to put major contracts in place.

ANSWER 3.1-C There are three general processes for contracting: 1) Full and open competition, 2) Direct award or assignment, and 3) Set aside/Small Business Administration (SBA) contracts.

1. Full and open competition is the preferred method of contracting. It should produce the best product at the lowest price for the Department.
2. There are situations where a contract can or must be awarded directly. When contracting for a product made by only one company, foreign governmental agreements, national security, and time and urgency are three justifications for not using full and open competition.
3. For projects under \$25,000, there are Small Business Administration (SBA) or set aside contracts that are awarded to small and disadvantaged business.

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EXERCISE 3.1-D Explain what is meant by “Make-or-Buy” in procuring products or services.

ANSWER 3.1-D A determination needs to be made for both products and services on the most cost effective way to get products or services. Is it more or less cost effective to buy a product “off the shelf” or to design and build it. Likewise, which is more cost effective; to send a DOE employee to a training course or school to be trained in a process or to hire someone with those skills? This decision will be made through a cooperative effort of the line manager and Procurement.

EXERCISE 3.1-E Discuss the requirements to procure external products and services for DOE projects.

ANSWER 3.1-E A wide selection of contract types is available to the government and contractors in order to provide flexibility in acquiring the large variety and volume of supplies and services required by agencies.

EXERCISE 3.1-F Describe the methods for procuring other DOE or government products and services.

ANSWER 3.1-F Services and products can be procured through other parts of DOE or other governmental agencies through interagency agreements or matrix support.

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EXERCISE 3.1-G Describe the roles and responsibilities of the Contracting Officer Representative and explain the relationship among the Contracting Officer Representative, the Contracting Officer, and the Contractor.

ANSWER 3.1-G

ROLES, RESPONSIBILITIES, AND RELATIONSHIPS			
Title	Role	Responsibility	Relationship
Contracting Officer	Department employee authorized to enter into, administer, and/or terminate contracts, financial assistance awards, leases, and/or sales contracts and make related determinations and findings.	Establishes binding legal relationships that obligate the government to pay for supplies and services received from the contractor.	(Note that the technical aspects of the contractor's management and operations are typically overseen by the Contracting Officer Technical Representative.) In so doing, the Contracting Officer (and the Contracting Officer Representative) form a partnership such that clear lines of communication are established, and collaborative agreements on contract performance goals, objectives, measures, and indicators are made.
Contracting Officer Representative	A government employee formally designated to act as an authorized representative for specified functions, such as temporary monitoring, which do not involve a change in scope, price, terms, or conditions of a contract or financial assistance agreement.	Act as an authorized representative of the Contracting Officer for specified functions.	
Contractor	A business concern or organization selected by the government's contract authority to manage and/or operate specific facilities, project, or programs; and/or perform specific tasks and duties.	The contractor is responsible for accomplishment of all the work, whether performed by its own personnel or subcontractors, and must itself possess the core competencies to manage the overall effort, including planning, subcontracting, integrating, expediting, and coordination of tasks.	